

City of Exeter Agenda Item Transmittal

Meeting Date: August 18, 2020

Agenda Item Number: 3

Wording for Agenda: Consideration of District A, B, and E City Council Member Appointments In-Lieu of Election, including the conducting of interviews of eligible electors for District E that have submitted letters of interest to serve.

Submitting Department: City Attorney/Administration
Contact Name: Julia Lew, City Attorney
Shonna Oneal, City Clerk
Phone Number: 559-592-9244
Email: soneal@exetercityhall.com

For action by:

☒ City Council

Regular Session:

☐ Consent Calendar

☒ Regular Item

☐ Public Hearing

Review:

**City Administrator
(Initials Required)**



Department Recommendation:

Staff recommends that City Council consider options pursuant to Elections Code §10229 as they pertain to the District A, B, and E seats. One option is to adopt Resolutions 2020-36; 2020-37; and 2020-38 providing for the appointment of Dave Hails, District A; Barbara Sally, District B; and an Eligible Elector, District E to the Office of Exeter City Council. Dave Hails and Barbara Sally may be re-appointed to their seats, as they are the sole qualified candidates in Districts A and B. An eligible elector may be appointed for the District E seat, because no qualified candidates filed for the seat in District E. The person(s) appointed, if any, shall qualify and take office and serve exactly as if elected at a municipal election for the office. Alternatively, the Council may proceed with the election for any or all of these seats.

Summary:

An option to appoint instead of election is available pursuant to California Elections Code §10229, if only one nominated candidate in each district exists. If the Council chooses to make appointments in lieu of an election, this will result in a cost savings to the City in not having to incur the printing and administration costs of including those candidates on the ballot. However, if the City Council makes an appointment as allowed by statute, the City Clerk would not accept for filing any statement of write-in candidacy which is submitted after the appointment is made.

Background:

The Candidate Nomination Filing Period for the November 3, 2020 General Election was July 13 through August 7. As of the close of the nomination period on Friday, August 7, 2020, the only qualified nomination papers received for District A were filed by Dave Hails and for District B were filed by Barbara Sally and none were received for District E.

Pursuant to Elections Code §10229, the City elections official shall submit a certificate of these facts to the governing body of the city and inform the governing body of the city that it may, at a regular or a special meeting held before the municipal election, adopt one of the following courses of action:

- (1) Appoint to the office the person who has been nominated.
- (2) Appoint to the office any eligible elector if no one has been nominated.
- (3) Hold the election, if either no one, or only one person has been nominated.

A notice of the facts described was published in a newspaper of general circulation, The Sun-Gazette, pursuant to Government Code §6061 on Wednesday, August 12, 2020.

In District A and B, options (1) or (3) are available. In District E, options (2) or (3) are available because no person has been nominated. The City published on its website and Facebook page on August 12, 2020, that Eligible Electors that are registered voters in the City of Exeter and reside in District E and are interested in serving for the term ending in November 2024, to submit a letter of interest for consideration by Tuesday, August 18, 2020 at 12:00 p.m. At the meeting, the Council can consider any letters of interests submitted for District E, conduct interviews of those that are interested, and, if they would like, proceed with appointing to office any eligible elector. Any appointed council members will be installed after the November election, no later than the next regularly scheduled meeting following the presentation of the 28-day canvass of returns.

If the proposed Resolutions are adopted and appointments made, a certified copy of said Resolutions will be forwarded to the Tulare County Registrar of Voters Elections Office as notice of cancellation of the November 3, 2020 Election for City of Exeter Districts A, B, and E.

Pursuant to Elections Code §10229, the deadline for appointment in-lieu of election is August 20, 2020. Therefore, this special meeting was required to meet this deadline.

Financial Impact:

By cancelling the election and proceeding with appointment, the election costs will be reduced. An exact amount will not be known until early next year when invoices are submitted for payment by the Elections office but based on previous elections could be in the range of \$2,000.00 to \$3,000 per candidate. The set-up costs for the elections will still have to be paid for these districts.

Prior Council/Board Actions: None

Attachments: Resolution 2020-36
Resolution 2020-37
Resolution 2020-38

Recommended motion options to be made by Council/Board: I move to:

For Districts A and B:

- (1) Appoint Dave Hails to District A and Barbara Sally to District B, and adopt Resolutions 2020-36 and Resolutions 2020-37 subject to minor conforming changes as required by the Election's Office; OR
- (2) Authorize the holding of the election for Districts A and B; OR
- (3) Approve an alternative action (to be determined) by the City Council

For District E:

- (1) Appoint a specific elector of the City of Exeter, District E (named), and adopt Resolution 2020-38 subject to minor conforming changes as required by the Election's Office; OR
- (2) Hold the election for the District E seat

RESOLUTION 2020-36

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EXETER
PROVIDING FOR THE APPOINTMENT OF DAVE HAILS TO THE OFFICE OF CITY COUNCIL
FOR THIS CITY FOR DISTRICT A THAT WAS TO BE ELECTED ON TUESDAY, NOVEMBER 3,
2020 FOR THE SHORT-TERM ENDING NOVEMBER 2022 IN ACCORDANCE WITH CALIFORNIA
ELECTIONS CODE §10229**

WHEREAS, pursuant to Elections Code §10229 of the Elections code of the State of California, as of the close of the nomination period on August 7, 2020, there is not more than one candidate for the available City Council Seat for District A to be elected; and that Elections Code §10229 allows one of the following courses of action to be taken by the City Council:

- (1) Appoint to the office the person who has been nominated.
- (2) Appoint to the office any eligible elector if no one has been nominated.
- (3) Hold the election, if either no one, or only one person has been nominated.

WHEREAS, a notice of these facts was published on Wednesday, August 12, 2020, in a newspaper of general circulation pursuant to Government Code §6061.

NOW, THEREFORE, the City Council of the City of Exeter, California, does hereby resolve, declare, determine, and order as follows:

SECTION 1. That pursuant to §10229 of the Elections Code of the State of California, the following action is being taken:

The following person is appointed to the office to which they are nominated:

Dave Hails, Member of the Exeter City Council – District A

SECTION 2. The election scheduled to be held on Tuesday, November 3, 2020 specific to Districts A is now cancelled.

SECTION 3. Pursuant to §10229, Elections Code, the City Clerk shall not accept for filing any statement of write-in candidacy which is submitted after the appointment is made.

SECTION 4. Pursuant to §10229, Elections Code, the persons appointed will be sworn in no later than the next regularly scheduled City Council Meeting following the presentation of the 28-day canvass of the returns, and will take office and serve exactly as if elected at a municipal election for that office, for the remainder of the short-term ending 2022.

SECTION 5. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED this 18th day of August, 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mayor

ATTEST:

City Clerk

RESOLUTION 2020-37

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EXETER
PROVIDING FOR THE APPOINTMENT OF BARBARA SALLY TO THE OFFICE OF CITY
COUNCIL FOR THIS CITY FOR DISTRICT B THAT WAS TO BE ELECTED ON TUESDAY,
NOVEMBER 3, 2020 FOR THE TERM ENDING NOVEMBER 2024 IN ACCORDANCE WITH
CALIFORNIA ELECTIONS CODE §10229**

WHEREAS, pursuant to Elections Code §10229 of the Elections code of the State of California, as of the close of the nomination period on August 7, 2020, there is not more than one candidate for the available City Council Seat for District B to be elected; and that Elections Code §10229 allows one of the following courses of action to be taken by the City Council:

- (1) Appoint to the office the person who has been nominated.
- (2) Appoint to the office any eligible elector if no one has been nominated.
- (3) Hold the election, if either no one, or only one person has been nominated.

WHEREAS, a notice of these facts was published on Wednesday, August 12, 2020, in a newspaper of general circulation pursuant to Government Code §6061.

NOW, THEREFORE, the City Council of the City of Exeter, California, does hereby resolve, declare, determine, and order as follows:

SECTION 1. That pursuant to §10229 of the Elections Code of the State of California, the following action is being taken:

The following person is appointed to the office to which they are nominated:

Barbara Sally, Member of the Exeter City Council – District B

SECTION 2. The election scheduled to be held on Tuesday, November 3, 2020 specific to Districts B is now cancelled.

SECTION 3. Pursuant to §10229, Elections Code, the City Clerk shall not accept for filing any statement of write-in candidacy which is submitted after the appointment is made.

SECTION 4. Pursuant to §10229, Elections Code, the persons appointed will be sworn in no later than the next regularly scheduled City Council Meeting following the presentation of the 28-day canvass of the returns, and will take office and serve exactly as if elected at a municipal election for that office, for the remainder of the term ending November 2024.

SECTION 5. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED this 18TH day of August, 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mayor

ATTEST:

City Clerk

RESOLUTION 2020-38

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EXETER
PROVIDING FOR THE APPOINTMENT OF AN ELIGIBLE ELECTOR TO THE OFFICE OF CITY
COUNCIL FOR THIS CITY FOR DISTRICT E THAT WAS TO BE ELECTED ON TUESDAY,
NOVEMBER 3, 2020 FOR THE TERM ENDING NOVEMBER 2024 IN ACCORDANCE WITH
CALIFORNIA ELECTIONS CODE §10229**

WHEREAS, pursuant to Elections Code §10229 of the Elections code of the State of California, as of the close of the nomination period on August 7, 2020, there is not more than one candidate for the available City Council Seat for District E to be elected; and that Elections Code §10229 allows one of the following courses of action to be taken by the City Council:

- (1) Appoint to the office the person who has been nominated.
- (2) Appoint to the office any eligible elector if no one has been nominated.
- (3) Hold the election, if either no one, or only one person has been nominated.

WHEREAS, a notice of these facts was published on Wednesday, August 12, 2020, in a newspaper of general circulation pursuant to Government Code §6061.

NOW, THEREFORE, the City Council of the City of Exeter, California, does hereby resolve, declare, determine, and order as follows:

SECTION 1. That pursuant to §10229 of the Elections Code of the State of California, the following action is being taken:

The following person is appointed to the office to which they are nominated:

_____, Member of the Exeter City Council – District E

SECTION 2. The election scheduled to be held on Tuesday, November 3, 2020 specific to Districts E is now cancelled.

SECTION 3. Pursuant to §10229, Elections Code, the City Clerk shall not accept for filing any statement of write-in candidacy which is submitted after the appointment is made.

SECTION 4. Pursuant to §10229, Elections Code, the persons appointed will be sworn in no later than the next regularly scheduled City Council Meeting following the presentation of the 28-day canvass of the returns, and will take office and serve exactly as if elected at a municipal election for that office, for the remainder of the term ending November 2024.

SECTION 5. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED this 18th day of August, 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mayor

ATTEST:

City Clerk